

NO. PD-1012-16

LANNY MARVIN BUSH,

VS.

THE STATE OF TEXAS

§ IN THE COURT OF

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CRIMINAL APPEALS

STATE OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
3/15/2017
ABEL ACOSTA, CLERK

MOTION TO EXTEND TIME TO FILE APPELLANT'S RESPONSE
BRIEF

Patrick Howard, attorney for Lanny Marvin Bush, Appellant files this Motion to Extend Time to File Appellant's Response Brief, and in support hereof respectfully shows as follows and requests this Court grant this Motion.

A. Introduction

1. Appellant is Lanny Marvin Bush, represented by Patrick Howard.
2. Appellee is the State of Texas, represented on Appeal by the Coleman County District Attorney, Heath Hemphill and Brown County Assistant District Attorney Elisha Bird.

B. Argument & Authorities

3. This case is on appeal from the 42nd Judicial District Court of Coleman County, Texas, numbered 2602 and styled the STATE OF TEXAS vs. LANNY MARVIN BUSH. Appellant was convicted of Capital Murder, following a jury trial and assessed a sentence of life without parole in the Texas Department of Criminal Justice.

4. On August 11, 2016, the Eleventh Court of Appeals held the evidence insufficient to support capital murder, but sufficient to support murder and remanded the case to the trial court for a new punishment hearing.

5. Both the State and the Appellant filed Motions for Rehearing which were denied by the Eleventh Court of Appeals.

6. The State and Appellant filled Petitions for Discretionary Review. On January 11th, 2017, the Court of Criminal Appeals denied Appellant's Petition for Discretionary Review but granted the State's Petition for Discretionary Review.

7. Based on confusion, partially caused by Appellant's partial desire to represent himself, this Court on February 7th, 2017, Ordered the Trial Court to hold a hearing regarding Appellant's desire for new counsel, Appellant's current qualifications for indigency, and if qualified, clarification of Appellant's Counsel.

8. At this hearing on February 14th, 2017, the Trial Court appointed Appellants new counsel.

9. The State filed their Appellate Brief on the Merits on February 13th, 2017.

10. Appellant's Brief is currently due March 15th, 2017.

11. Counsel for Appellant respectfully requests an additional extension of time of sixty days to file Appellant's Brief.

12 No extensions of time to file the brief has been requested and granted in this cause by this Counsel.

12. Appellant is currently incarcerated.

13. The current deadlines and settings in this case are dependent on the granting of this Motion. No other settings are known at this time to Counsel for the Appellant.

14. Appellant relies on the following facts as good cause for the requested extension:

Counsel, who was not Trial counsel nor original Appellate counsel was just appointed on February 14th, 2017. Counsel has only recently procured the Reporter's Record and Court Record from the previous counsel, which consisted of a multiple day jury trial plus pre-trial proceedings. Counsel has not had adequate time to review the full record in-depth or to adequately consult with Appellant.

In addition to a regular legal practice, Counsel's time has been hindered by preparation of a heavy-docket of recent jury trial settings, including the STATE OF TEXAS vs. BRIAN CAVETT, 6132, IN THE 452ND DISTRICT COURT OF MCCULLOCH COUNTY, TEXAS, which was reached and tried during the week of March 6th, 2017.

The sixty day time period requests not only the complexity of the work involved in this case but also Counsels estimation of his additional Court settings and work commitments in the next sixty days.

15. Counsel apologizes for this delay which was not intentional or purposeful. The extension requested is believed only for the additional amount of time necessary to complete an appropriate and fair brief on behalf of the Appellant.

C. Prayer

For these reasons, Patrick Howard ask and prays this Court to grant this motion and grant an extension of time for Appellant, to file Appellant's response brief.

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By:

/S/ Patrick Howard

Patrick Howard
Texas Bar No. 24046113
Court Appointed Counsel

CERTIFICATE OF CONFERENCE

I certify that I have conferred with the Coleman County District Attorney's Office, Mr. Heath Hemphill, and Brown County District Attorney's Office, Mrs. Elisha Bird and both are unopposed to this Motion.

/S/Patrick Howard

Patrick Howard

CERTIFICATE OF SERVICE

I certify a true and correct copy of the above and foregoing Appellant's Brief was served by regular U.S. Mail, facsimile or hand delivery in accordance with the Rule 9.5 of the Texas Rules of Appellate Procedure on or before March 15, 2017, on each party as listed below:

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/S/ Patrick Howard

Patrick Howard

